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SFDR on Course for Change

September 14, 2023

The European Commission has published two consultation papers that seek views on the fundamental features and effectiveness of the Sustainable Finance Disclosure Regulation (**SFDR**). The purpose of both the targeted and the public consultation is to gather information on stakeholders' experiences with the implementation of the SFDR. In particular, the Commission is interested in understanding how the SFDR has been implemented, how it interacts in practice with the other parts of the European framework for sustainable finance, and in exploring possible options for improving the framework.

Targeted consultation paper

In the targeted consultation paper (the **Consultation**), asset managers and investors, as well as a wider range of relevant stakeholders, are invited to provide feedback on a broad range of areas including:

- **Categorisation:** Whether Article 6, 8 and 9 products should "*disappear altogether from the transparency framework*" and be replaced with a more precise product categorisation system. Alternatively, whether the Article 6, 8 and 9 products could form the basis of these new categories. If categories are developed, this would be aligned with the approach taken by the Financial Conduct Authority for the UK's Sustainability Disclosure Requirements.
- **Principal adverse impacts (PAIs) indicators**: The Consultation queries how useful and/or appropriate these are. There are several PAI-related questions querying whether PAIs should be retained or whether an alternative approach should be taken. One option is whether the application of PAIs, or a more limited subset of them, is mandatory for all financial products offered in the EU (regardless of any sustainability-related claims). If found to be the preferred option, this would represent a significant uplift in reporting requirements.
- **Uniform disclosures**: Options are presented on whether there could be standardized product disclosures for financial products with certain sustainability claims. The European Commission asks for feedback on the following potential areas to be included in uniform disclosures: (i) Taxonomy-related disclosures; (ii) engagement strategies; (iii) exclusions; (iv) information about how ESG-related information is used in the investment process; or (v) other information.

- **Website disclosures**: The Consultation touches on the challenge that many market participants face, on whether the website disclosures should be made public or not.

There are some questions specifically targeted at professional investors which include whether:

- they obtain the most relevant sustainability information from direct enquiries or via SFDR disclosures;
- SFDR requirements have improved the quality of information and transparency about the sustainability features of products; and
- sustainability product categories would facilitate professional investor understanding of products' sustainability-related strategies and objectives.

Other areas covered in the Consultation include whether the disclosures should be machine-readable, the level of detail required in disclosures and the location of information across product and entity level disclosures.

Public consultation paper

A further public consultation paper has been published seeking broader feedback on SFDR. The reasons why they have launched this consultation include "*to assess potential shortcomings – focusing on legal certainty, the useability of the regulation and its ability to play its part in tackling greenwashing*".

Reponses for both consultations need to be submitted via an online questionnaire by 15 December 2023.

Proskauer's UK Regulatory team will be working with clients and industry groups on responding to these significant consultation papers.

For a wider overview of the current and future landscape of UK and EU sustainable finance regulation, please refer to our article here.

For further information, please reach out to UKRegulatory@proskauer.com.

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